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COMMISSION ON HUMAN RIGHTS

Inter-sessional open-ended working group
for the elaboration of a draft optional
protocol to the Convention on the Rights
of the Child on the sale of children,
child prostitution and child pornography
Second session
29 January-9 February 1996

COMMENTS ON THE GUIDELINES FOR A POSSIBLE DRAFT OPTIONAL PROTOCOL

Note by the Secretary-General

Addendum

The present document contains comments submitted by the International Criminal Police Organization.

International Criminal Police Organization

[Original: French]
[5 December 1995]

1. The International Criminal Police Organization (Interpol) wishes to emphasize the importance of the initiative taken by the Commission on Human Rights in establishing the Working Group for the elaboration of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. This initiative is in keeping with the resolution adopted by the Interpol General Assembly at Dakar in 1992. The resolution not only established the Standing Working Party on Offences against Minors, but also contained recommendations set out by various topics, such as statistics, prevention, police facilities, training and child pornography, which have prompted Interpol member countries to change their legislation and facilities accordingly.

2. At the 6th meeting of this Interpol Working Party, in London in November 1995, in-depth discussions were held on the subject of updating these recommendations in the light of their current relevance and of work done and progress made since 1992. A new version should be proposed for adoption at the next Interpol General Assembly in 1996. This version is very similar to the provisions contained in the guidelines for a possible additional protocol to the Convention on the Rights of the Child.

3. It is extremely important for the Convention on the Rights of the Child to be supplemented by a specific text setting forth concrete measures. The signatories to the Convention, and hence to the additional protocol, must be fully aware of their obligations and of the concrete measures which need to be taken. One of the strengths of these guidelines, therefore, is that they do not seek to establish a new international instrument, but instead to draw attention to the ones that already exist and thus stress the need to work within their ambit.

4. The fourth subparagraph of part III, "Implementation of pertinent instruments", draws a parallel between international organizations and non-governmental organizations, yet they are two radically different entities, from the standpoint of both structure and operating methods. Interpol, as an international organization, is not supposed to be governed by the same rules as a non-governmental organization and therefore does not come under any "national legislation", contrary to what the end of the sentence would suggest. This subparagraph should be redrafted in such a way as to fully distinguish between the two types of organization and their respective duties, while bearing in mind the need to encourage their activities and mutual collaboration.

5. In part IV, relating to legislation and measures for compensation and protection of children, paragraphs 1 and 2 are extremely important in that they provide the forces of law and order with the requisite legislative tools to carry out their work effectively. Above all, they ensure that the offences targeted will be effectively prosecuted, either in the country where the offence has been committed or in the offender's country of origin. Extraterritorial legislation is extremely important, as an instrument of

deterrence and punishment of offenders. During discussions of this issue, the Interpol Working Party agreed that for this legal instrument to be both effective and efficient, bilateral agreements would have to be concluded between "receiver" countries of this type of crime and "supplier" countries of the criminals, in the interests of criminal proceedings. Accordingly, it might have been better to combine part IV, paragraph 2, with part V, on international cooperation, more especially with paragraphs 1, (a), (b) and (c), which focus on the need for bilateral agreements, particularly in connection with judicial procedures.

6. Lastly, it appears that part IV lacks a paragraph on the specific measures to be applied to the forces of law and order and the need for ongoing training, setting up specialized units, the priority to be given to crimes against children and the appointment of specialized liaison officers responsible for easier communication and exchange of information, and also to ensure that children's basic rights are safeguarded during judicial proceedings. The Inter-sessional Working Group will find these issues in the Interpol recommendations*. Part IV, paragraph 6, of the guidelines contains the principal rules for effectively safeguarding the rights of child victims, in particular the right not to suffer additional trauma as a result of the investigation and the relevant judicial proceedings.

7. Interpol attaches great importance to its relations with United Nations ad hoc bodies on the various subjects of relevance to both organizations.

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* These recommendations can be found in the report submitted to the Interpol General Assembly, which is available for consultation at the secretariat of the Centre for Human Rights.